IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7870 OF 2007

Mahadev Gavdu Patil ....Petitioner
V/s
The Minister of State & Ors. ....Respondents.

Mr.S.S.Pakale Adv. For the petitioner.

Mrs.V.S.Mhaispurkar, AGP for the respondent Nos. 1 to 3.

CORAM: A.P.DESHPANDE, J.
24/10/07

PC:

The petitioner is elected sarpanch of a village panchayat of Tudiye. Respondent Nos. 4 and 5 filed a complaint with respondent No.2 alleging therein that the petitioner has incurred disqualification under section 14(1)(g) of the Bombay Village Panchayats Act, 1958. Section 14(1)(g) reads thus:

> "14(1)(g). No person shall be a member of panchayat or continue as such who has directly or indirectly by himself or his partner, any share or interest in any work done by or of the panchayat, or in any contract with, by or on behalf of, or employment with or under, the panchayat."

The purpose sought to be achieved by section 14(1)(g) is to avoid a situation of conflict between duty and interest. In the present case, the authorities below have found on facts that the petitioner who was the sarpanch had allotted a contract in favour of his son by

name Deepak Patil for removal of earth escavated for digging of well so also for laying murum for construction of a Road. It is undisputed that the petitioner himself collected two cheques drawn in the name of his son one each for Rs.4000/- and Rs.1600/-. Learned counsel for the petitioner has submitted that the petitioner has only charged the panchayat cost of diesel. It is immaterial as to whether the petitioner has made any profit or otherwise. The disqualification is attracted the moment the sarpanch is shown to have direct or indirect interest in any work or the contract of the panchayat. A further finding of fact is recorded by the authorities below that the petitioner and his son are members of joint family who reside under the same roof. Perused the impugned orders. I have no hesitation to conclude that the authorities below have rightly found the petitioner to be disqualified under section 14(1)(g) on account of award of contract to the son of the petitioner. Learned counsel has submitted that similar contract was performed by another member but no action against him is taken. This cannot be a ground to vitiate the order under challenge. It is also submitted that the complaint was mala fide and as the action was penal it ought to have been on definite charges. I do not find any merit in the said submissions in the facts of the present case. Hence writ petition is summarily dismissed. At this stage learned counsel for the petitioner seeks stay of this order. Prayer is rejected.

24.10.07